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| 10/754,115      | 01/07/2004  | Timothy D. Hey       | DAS-104XC1          | 8974             |

23557 7590 07/06/2007  
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| EXAMINER |
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KOSSON, ROSANNE

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| ART UNIT | PAPER NUMBER |
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1652

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|-----------|---------------|

07/06/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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| APPLICATION NO./<br>CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR /<br>PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|

EXAMINER

ART UNIT

PAPER

20070627

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

## Commissioner for Patents

The reply filed on June 19, 2007 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s). None of the amended or new claims reads on the elected invention, a composition comprising an effective amount of a Xenorhabdus A protein, a Photorhabdus B protein and a Photorhabdus C protein, in which the A protein is SEQ ID NO: 34. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosanne Kosson whose telephone number is 571-272-2923. The examiner can normally be reached on Monday-Friday, 8:30-6:00, alternate Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rosanne Kosson  
Examiner, Art Unit 1652

rk/2007-06-27

Rosanne Kosson

*Rebecca E. Proity*  
REBECCA E. PROITY  
PRIMARY EXAMINER  
GROUP 1898  
1600



Continuation of Substance of Interview including description of the general nature of what was discussed: Applicants' representative was informed that, in the amended claim set filed on 6/19/07, none of the claims read on the elected invention- an insecticidal composition of a homotetramer of an A protein (recited in the claims as an effective amount of an A protein), a B protein and a C protein in which the A protein is SEQ ID NO: 34 (from *Xenorhabdus*), the B protein is one definite and specific protein from a set of *Photorhabdus* B proteins that enhance the insecticidal activity of SEQ ID NO: 34, and the C protein is one definite and specific protein from a set of *Photorhabdus* C proteins that enhance the insecticidal activity of SEQ ID NO: 34. In addition to reciting non-elected sequences, the "wherein" clauses change the meaning of the claims, because they recite that when B is from *Xenorhabdus*, C is from *Photorhabdus* and visa versa. Applicants' representative was advised that he would receive a notice of incomplete response. Applicants' representative will file an amended claim set in response to this notice..